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In re Application of ATTALI et al
U.S. Application No.: 10/565,208
PCT Application No.: PCT/FR04/01853
Int. Filing Date: 15 July 2004
Priority Date Claimed: 23 July 2003
Attorney Docket No.: 017346-0190
For: METHOD OF LOCATING MOBILE
COMMUNICATING OBJECTS . . .

DECISION

This is in response to the "Renewed Petition Under 37 CFR 1.181" filed 20 September 2007.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/FR04/01853, which claimed priority of an earlier France application filed 23 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 23 January 2006.

On 20 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 03 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 June 2006, applicant filed a request for status under 37 CFR 1.42 along with an executed declaration.

On 09 August 2006, this Office mailed a decision dismissing the 29 June 2006 request for status.

On 18 May 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 17 July 2007, applicant filed a petition under 37 CFR 1.181 and a renewed request for status under 37 CFR 1.42.

On 19 July 2007, this Office mailed a decision dismissing the 18 July 2007 petition.

On 20 September 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The petition states that the decision mailed 09 August 2006 was never received.

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that s/he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, the requisite docket record has not been provided. The docket record must list responses due to the USPTO on 09 October 2006 for all cases handled by the representative's firm. Such docket record must illustrate the absence of any listing of a response due to a petition decision for the present application. The present petition includes a docket record which lists responses due to the USPTO on 09 August 2006. However, since the decision mailed 09 August 2006 set a two month period for response, the relevant docket record date is 09 October 2006, contrary to petitioner's assertion.

A decision on the renewed request for status under 37 CFR 1.42 will be held in abeyance until a grantable petition under 37 CFR 1.181 is filed.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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